
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bachovchin, W.W. *et al.*

Examiner: Russel, J.E.

Patent No.: US 7,157,429 B1

Art Unit: 1654

Issued: January 2, 2007

Atty. Docket No.: TUV-043.01

Title: *Method for Regulating Glucose Metabolism,
and Reagents Related Thereto*

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RESPONSE TO DENIAL OF REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.323 AND RENEWED REQUEST FOR CERTIFICATE OF
CORRECTION**

In response to the Notice of denial of patentee's initial Request for Certificate of Correction in the above-identified patent, which Notice was mailed August 31, 2007, the Patentee submits this paper clarifying the bases for the initial request of a Certificate of Correction. Moreover, the patentee hereby renews the Request for Certificate of Correction.

Summary of Good-Faith Efforts Timely to Make Complete and Correct Priority Claim

U.S. patent application Serial No. 09/628,225 (hereinafter "the '225 application"), which matured into U.S. Patent No. 7,157,429, was filed on July 28, 2000. The '225 application was filed with an unsigned declaration that claimed priority under 35 USC § 119(a)-(d) to then-pending international application PCT/US99/02294, filed February 2, 1999; and also claimed priority under 35 USC § 119(e) to U.S. provisional application Serial No. 60/073,409, filed February 2, 1998. Also included at the time of filing the '225 application was a Preliminary Amendment directing the entry before "Background of the Application" of a section entitled "Related Applications"; the Related Applications section made specific reference to the prior applications listed above.

Executed Declarations containing the same explicit reference to the earlier priority applications were subsequently filed on April 6, 2001.

An Updated Filing Receipt was mailed on May 24, 2001, properly indicating the priority claim to the U.S. Provisional application, but failing to include the reference to the PCT application to which priority was properly and timely claimed in the aforementioned Preliminary Amendment and executed Declarations.

An Office Action was mailed on August 31, 2001 in the '225 application, stating that: Applicants' priority claim made in the July 28, 2000 Preliminary Amendment was defective because it did not indicate what type of priority was claimed; the Declaration indicated that a priority claim was made under 35 USC § 119 even though both the provisional application and the PCT application were filed more than 12 months before the filing of the '225 application; and the Preliminary Amendment did not place the priority claim as the first sentence of the specification.

A response to Office Action was filed November 30, 2001, wherein Applicants provided a new, executed declaration, and made arguments that specified that Applicants' priority claim to the PCT application was made under 35 USC § 120, but did not amend the language of the Preliminary Amendment.

An Office Action mailed January 18, 2002 maintained the objections to Applicants' priority claims.

Applicants responded on July 18, 2002 by requesting the replacement of the priority claims made in the Preliminary Amendment with the following language: "The instant application claims benefit of priority to U.S. Application No.60/073,409, filed February 2, 1998, which is a continuation of PCT Application No. US99/02294, filed on February 2, 1999."

In an Office Action mailed on April 23, 2003, Applicants' amendment presented on July 18, 2002 was objected to because a provisional application cannot claim priority to any other type of application and a priority claim cannot be made to a later-filed application. The Examiner also asserted that no copendency existed between the '225 application and the

provisional application; and Applicants did not place the priority claim as the first sentence of the specification.

A response to Office Action was filed September 23, 2003, requesting the insertion after the title of the following sentence: "The instant application is a continuation of PCT Application No. US99/02294, filed on February 2, 1999, which claims benefit of priority to U.S. Provisional Application No.60/073,409, filed February 2, 1998."

In an Office Action mailed November 10, 2003, the Examiner noted that Applicants failed to delete the July 18, 2002 priority claim, and requested appropriate correction.

In an amendment filed April 20, 2004, Applicants deleted the paragraph before the Background of the Application section, which had been added in the July 18, 2002 response.

Subsequently, an Office Action was mailed on September 20, 2004 that did not repeat the objections to the priority claims, indicating that Applicants had met the requirements for claiming priority to the PCT and Provisional applications under 35 USC § 119 and § 120.

A Notice of Allowance and Fee(s) Due was mailed on August 15, 2006, and the Issue Fee was paid on October 25, 2006.

The patent issued on January 2, 2007, but failed to include the Related Applications section of the application, as amended on September 23, 2003, and also failed to include reference to the prior applications on the face of the patent.

Requested Relief

For these and other reasons, the Patentee respectfully asserts that the conditions for claiming priority under 35 USC § 119 and § 120 have been timely met. Therefore, the Patentee hereby renews the Request for Certificate of Correction.

The Patentee submits the accompanying Form PTO/SB/44 Certificate of Correction to correct two errors in the printed version of U.S. Patent No. 7,157,429 B1.

Fees

The Patentee respectfully asserts that the errors that now require correction were made by the USPTO and, therefore, no fees are due with the submission. Nevertheless, the Director is authorized to charge our Deposit Account, **No. 06-1448 Ref. No. TUV-043.01**, to cover the fee set forth in 37 CFR 1.20(a) or any other fees due in connection with this submission. Please direct any questions to the undersigned Attorney at telephone number 617-832-1000.

Date: May 30, 2008

Customer No: 25181

Patent Group

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Respectfully Submitted,

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PATENT NO. : 7,157,429
APPLICATION NO. : 09/628,225
ISSUE DATE : January 2, 2007
INVENTOR(S) : William W. Bachovchin *et al.*

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page at Field (60), please insert: --Continuation of international application No. PCT/US99/02294, filed on Feb. 2, 1999, which claims the benefit of Provisional application No. 60/073,409, filed on Feb. 2, 1998.--

In column 1, immediately following the title, please insert: --The instant application is a continuation of PCT Application No. US99/02294, filed on February 2, 1999, which claims benefit of priority to U.S. Provisional Application No. 60/073,409, filed on February 2, 1998.--